

**BOARD OF APPEALS CASE NO. 5239**

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**BEFORE THE**

**APPLICANT: William & Patricia Gilbert and  
Brad's Produce LLC**

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**ZONING HEARING EXAMINER**

**REQUEST: Variance to permit directional signs;  
2613 Churchville Road, Churchville**

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**OF HARFORD COUNTY**

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**Hearing Advertised**

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**Aegis: 3/20/02 & 3/27/02**

**HEARING DATE: May 13, 2002**

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**Record: 3/22/02 & 3/29/02**

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## **ZONING HEARING EXAMINER'S DECISION**

The Applicants, William and Patricia Gilbert and Brad's Produce, LLC, are requesting a variance, pursuant to Sections 219-17 and 219-13D(2) of the Harford County Sign Code, to allow a directional sign greater than 4 square feet in area (25 feet proposed), more than 6 feet in height above the road (13 feet proposed), and not located to the nearest intersecting arterial road to the business in an AG/Agricultural District.

The subject parcel is located at 2613 Churchville Road near the intersection of Asbury Road and is more particularly identified on Tax Map 42, Grid 3D, Parcel 334. The subject parcel consists of 41.01 acres, more or less, is zoned AG/Agricultural and is entirely within the Third Election District.

### **FINDINGS OF FACT**

The facts of the case are fairly simple. Brad's Produce is owned and operated by J. Bradley Milton. Mr. Milton is produce and grain farmer, former member of the Agricultural Advisory Board and stated that all of the property he farms is within the Agricultural Preservation Program. His farm produce operation has no frontage along MD Route 22 and is setback substantially from the road so that motorists cannot see the operation from Route 22. The Applicant does have frontage on MD Route 136 and has a sign located there but, according to the Applicant, 75% to 80% of his business comes to his produce operation from Bel Air and points south using Route 22 for access.

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The sign proposed is 4 feet by 6 feet in size (less than the size of sheet of plywood) and contains the name of the business, the particular produce available and the business phone number. Also attached is a directional arrow. The sign will be located on the Gilbert's farm property adjacent to Asbury Lane and visible from Route 22. The additional height is necessary because it will sit behind pasture fencing. Mr. Milton stated that he gets numerous complaints from customers stating that they cannot find his produce operation. The Applicant admitted that a sign on Route 136 would not require a variance but stated that a sign on Route 136 serves no purpose in directing customers from the Bel Air area to his operation. The Applicant introduced letters of support from 14 homeowners who own neighboring properties, indicating their support for the request. The Applicant and the Applicant's sign maker, Barbara Pollitt, indicated that the proposed letter size, sign size and height were optimal for the location and purpose of a directional sign. The Applicant did not believe any adverse impacts to neighboring properties would result from placement of the proposed sign at the proposed location.

Mr. William Monk appeared and qualified as an expert land planner. By referring to photographs introduced as Applicant's Exhibits 15, 16 and 17, Mr. Monk pointed out the location of the sign and lines of sight along Route 22. He pointed out acceleration/deceleration lanes on Route 22 at Asbury Road. Mr. Monk opined that the proposed location is the only possible location for a directional sign that would serve the purpose of directing motorists from the Bel Air area to the produce operation owned by the Applicant. If the operation were actually located along Route 22, the sign would be permitted as a matter of right and could actually be larger than the sign proposed. Based on these facts and the existence of other business signs along Route 22, the witness, in his expert opinion, stated that the sign as proposed was compatible with other signs commonly found in the Agricultural District in general and along Route 22 in particular. There will be no impacts associated with this sign different than any impacts associated with signs allowed as a matter of right. The purpose of a directional sign is to direct customers to a given business. A 4 square foot sign would not be visible because of the distance off the road and the speeds along Route 22. In the opinion of Mr. Monk, the proposed height, size and location are the minimum that would allow the sign to function as a directional sign.

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The Department of Planning and Zoning’s Staff Report is non-committal regarding its recommendations. It did not find that the property failed to meet the requirements for a variance nor did it find that the Applicant met the requirements of the Code. With the exception of thoroughly describing the surrounding area the Department’s Report was less than helpful in determining whether the proposed application should be approved.

Mr. and Mrs. Tom Harmon appeared in opposition to the subject request. The Harmons own and operate a competing produce stand on MD Route 22 at 2633 Churchville Road. The Harmons argued that the proposed sign was a billboard and not a directional sign. They argued that the sign was too small to be a directional aid to passing motorists and further that the sign will create traffic issues. On cross-examination, they admitted that Mr. Milton is a former employee of their produce operation which is located 900 feet away from the sign’s proposed location and that their primary concern was that this sign will serve to direct potential customers to Brad’s Produce and away from their produce operation.

### **CONCLUSION**

The Applicants, William and Patricia Gilbert and Brad’s Produce, LLC, are requesting a variance, pursuant to Sections 219-17 and 219-13D(2) of the Harford County Sign Code, to allow a directional sign greater than 4 square feet in area (25 feet proposed), more than 6 feet in height above the road (13 feet proposed), and not located to the nearest intersecting arterial road to the business in an AG/Agricultural District.

Harford County Code Section 219-13D(2) provides:

“The following signs shall be permitted in the following districts:

D. Agricultural districts.

- (2) Directional signs. One (1) directional sign, not exceeding four (4) square feet in sign area and six (6) feet in height above the road grade, shall be permitted per business use if set back ten (10) feet from the road right-of-way and located at the nearest intersecting arterial road.”

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**Harford County Code Section 219-17 provides:**

**“Variances. The Board may grant a variance from the provisions of this chapter if, by reason of the configuration or irregular shape of the lot or by reason of topographic conditions or other exceptional circumstances unique to the lot or building, practical difficulty or unnecessary hardship results. The Board shall, before granting the variance, make a written finding as part of the record that the conditions or circumstances described are unique to the lot or building, that the conditions or circumstances cause the difficulty or hardship and that the variance can be granted without impairment of the purpose and provisions of this chapter.”**

**The Hearing Examiner finds that there are exceptional circumstances unique to this request. The actual operation of the business is well off the road and the property has no frontage along the arterial road upon which most of its customers travel. The Applicant is placing the directional sign on a neighboring property in order to direct customers to the produce operation, which is otherwise not identifiable from Churchville Road. Because of the lack of road frontage and the number of customers that potentially arrive from the Bel Air area and points south along Route 22, a directional sign is appropriate at this location to allow motorists to safely identify the entrance to the business without executing unsafe maneuvers like U-turns or abrupt stopping. The size and height proposed is consistent with the purposes of a directional sign considering the distance from the road and the existence of pasture fencing. Moreover, the sign is consistent with other signs permitted as a matter of right in the AG District and commonly found in Harford County and along Route 22. This sign will have no greater impact than any other sign and serves a purpose intended by the Code.**

**The Hearing Examiner recommends approval of the subject request, subject to the Applicant obtaining any and all necessary permits and inspections and secondly, that the sign not differ materially in size or height from that introduced in this hearing.**

**DATE: JUNE 17, 2002**

**William F. Casey  
Zoning Hearing Examiner**

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